

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

)
IN RE ASHLEY MADISON CUSTOMER)
DATA SECURITY BREACH LITIGATION)
) MDL No. 2669
This Document Relates to:)
) Case No. 4:15MD2669 JAR
ALL CASES)
)

**DEFENDANT AVID DATING LIFE INC.'S MOTION FOR PROTECTIVE ORDER
PRECLUDING USE OF STOLEN DOCUMENTS BY PLAINTIFFS OR THEIR
COUNSEL**

Defendant Avid Dating Life Inc. hereby moves this Court to use its inherent equitable powers to issue a protective order prohibiting Plaintiffs and their counsel from using documents and information that were stolen from Avid Dating Life when its computer systems were hacked in July 2015. As set forth in the memorandum in support of this motion, the stolen documents and information include information related to users of the Ashley Madison website and internal company documents, including privileged documents. At least one Plaintiff in this litigation has admitted that his counsel has downloaded and reviewed hundreds of thousands of pages of these stolen documents.¹ Federal and state caselaw, federal and state rules of professional conduct, and ethics opinions interpreting those rules make clear that attorneys are prohibited from using stolen documents.

¹ Plaintiff Christopher Russell's Memorandum in Support of Motion to Appointment of Michael J. Flannery As Liaison Counsel for the Fraud Group [Document 59] at 2, 6-7.

Defendant Avid Dating Life requested that Plaintiffs agree to a stipulation under which they would refrain from using the stolen documents and destroy any in their possession, but Plaintiffs have refused to agree to refrain from using the stolen documents.²

Accordingly, and for the reasons set forth more fully in the accompanying memorandum in support, Defendant Avid Dating Life Inc. requests that the Court enter a protective order: 1) prohibiting Plaintiffs and their counsel from making any use of the stolen documents, either directly or indirectly, for any purpose, including, but not limited to, in the drafting of the consolidated class action complaint or any other future pleading; 2) compelling Plaintiffs and their counsel to destroy all copies of the stolen documents they may have in their possession, as well as any attorney work product that quotes or describes the contents of the stolen documents, within 5 days of the entry of the Court's order; and 3) awarding such other and further relief as this Court deems just and proper.

² See Exhibits 1-3 to Defendant Avid Dating Life's Memorandum in Support of Motion for Protective Order Precluding Use of Stolen Documents By Plaintiffs or Their Counsel.

Dated: February 29, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing were served upon the attorneys of record via operation of the Court's electronic filing system on the 29th day of February, 2016, and courtesy copies will be served via electronic mail to the following:

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